

## REMARKS

### *Objection to the Drawings*

The objection to the drawings is moot in view of the cancellation of claims 4 and 16-18. To the extent that new claims 32 and 33 are directed to subject matter that is similar to subject matter in canceled claims 16-18, it is noted that the subject matter of claims 32 and 33 is shown in Fig. 2a. Removal of the objection to the drawings is respectfully requested.

### *Objection to the Specification*

The objection to the specification for failure to support claimed subject matter is moot in view of the cancellation of claims 4-5 and 16-18. To the extent that new claims 32 and 33 are directed to subject matter that is similar to subject matter in canceled claims 16-18, it is noted that the subject matter of claims 32 and 33 is supported at paragraph [0011] and by drawing Figs. 2a-2c. Removal of the objection to the specification is respectfully requested.

### *Objection to the Claims*

The objection to claims 13-15 for lack of antecedent basis is moot in view of the cancellation of claims 13-15. It is believed that new claims 22-33 are free of antecedent basis problems. Therefore, withdrawal of the objection is kindly sought.

### *Claim Rejections - 35 USC § 103*

Claims 1, 2, 6-9, 13, 15 and 20 are rejected under 35 USC 103(a) as being unpatentable over US 5,760,952 (Koetke) in view of WO 98/14816 (Conia et al.). Claims 1-21 are canceled in favor of new claims 22-33 which have been drafted to patentably distinguish over Koetke in view of Conia et al. as explained below.

Koetke, at Fig. 4, shows a pair of lateral deflection elements 2a and 2c on opposite sides of a main illumination axis leading to deflection prism 2b. There are two other pairs of lateral deflection elements on opposite sides of the main illumination axis that must also be considered, namely element pairs 13, 15 and 14, 16.

First, regarding lateral deflection elements 2a and 2c, these are not in a corresponding lateral illumination axis that is non-parallel to the main illumination axis leading to deflection prism 2b in accordance with new claim 22. As can be seen in Fig. 4, the axis from element 14 to lateral deflection element 2a, and the axis from element 16 to lateral deflection element 2c, are parallel to the main illumination axis leading to prism 2b.

If one chooses the axis from one lateral light source to element 13, and the axis from the other lateral light source to element 15, as being the claimed lateral illumination axes, then a similar distinction is present because these axes are also parallel to the main illumination axis leading to deflection prism 2b. Moreover, elements 13 and 15 do not deflect the lateral illumination beams toward the main objective as the claimed lateral deflection elements must do.

If one chooses the axis from element 13 to element 14, and the axis from element 15 to element 16, as being the claimed lateral illumination axes, then the limitation that these lateral illumination axes are non-parallel to the main illumination axis is met. However, elements 14 and 16 do not deflect the lateral illumination beams toward the main objective as claimed, and deflection elements 2a and 2c which do deflect the lateral illumination beams toward the main objective are not in the non-parallel axes (element 13 to 14; element 15 to 16).

It is emphasized here that an "axis" differs from a "path" because an axis is a straight line, while a path may change direction.

In view of the foregoing, the limitations of claim 22 are not met by Koetke, with or without the teaching of Conia et al.

Regarding new claim 23, only deflection elements 13 and 15 are arguably directly adjacent opposite sides of the deflection prism 2b, and these elements cannot be the claimed lateral deflection elements as discussed above.

Claims 3-5, 10, 12, 16-18 and 21 are rejected under 35 USC 103(a) as being unpatentable over Koetke in view of Conia et al. and further in view of US 6,075,643 (Nonoda et al.). Claims 1-21 are canceled in favor of new claims 22-33 which have been drafted to patentably distinguish over Koetke in view of Conia et al. in further view of Nonoda et al.

The remarks made above distinguishing claim 22 over primary reference Koetke are reiterated here. In addition, regarding new claim 26, applicant respectfully disagrees with the assertion at page 10 of the Office Action that it would be obvious to modify the device of Koetke to have the deflection prism and pair of deflection elements be part of a composite deflection element. This would introduce optical material in observing beam paths 4a and 4b to link elements 2a and 2c to prism 2b, which would add expense and introduce an unnecessary source of "error" in the observing beam paths due to imperfections in the optical materials. In the present invention, the lateral deflection elements are directly adjacent opposite sides of the deflection prism.

Claims 11 and 19 are rejected under 35 USC 103(a) as being unpatentable over Koetke in view of Conia et al. and further in view of US 3,186,300 (Littmann). Claims 1-21 are canceled in favor of new claims 22-33 which have been drafted to patentably distinguish over Koetke in view of Conia et al. in further view of Littmann.

As commented above, new claim 22 defines the present invention in a manner that is structurally distinguishable over the primary reference Koetke. The secondary references, including Littmann, do not supply the limitations lacking in Koetke.

Claim 14 is rejected under 35 USC 103(a) as being unpatentable over Koetke in view of Conia et al. and further in view of US 4,311,358 (Gibbons et al.). Claims 1-21 are canceled in favor of new claims 22-33 which have been drafted to patentably distinguish over Koetke in view of Conia et al. in further view of Gibbons et al.

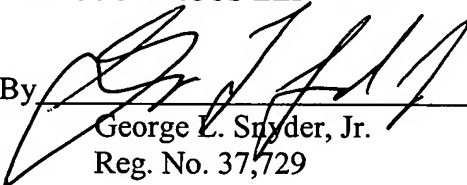
The distinguishing limitations of claim 22 with respect to Koetke are discussed above. The secondary references, including Gibbons et al., do not supply the limitations lacking in Koetke.

In view of the foregoing, favorable consideration of new claims 22-33 is kindly requested.

*Conclusion*

The present application is now thought to be in a condition for allowance. If the Examiner has any questions, the undersigned attorney may be contacted at the number provided below.

Respectfully submitted,  
HODGSON RUSS LLP

By   
George L. Snyder, Jr.  
Reg. No. 37,729

GLS/

One M&T Plaza, Suite 2000  
Buffalo, New York 14203-2391  
(716) 856-4000  
DATED: November 1, 2005